IN THE HIGH COURT OF JUDICATURE
FOR RAJASTHAN AT JAIPUR

S.B. Civil Writ Petition No.7156/2004

Smt. Neelam Chaturvedi Vs. Union of India & Ors.

Date of Order :: 13th March, 2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri N.K. Maloo for petitioner.

Shri R.N. Mathur for respondent No.1 & 2
Shri J.K. Singhi for respondent No.3.

REPORTABLE

Dispute in this matter pertains to allotment of a retail outlet of Hindustan Petroleum Corporation Ltd. at Halena in District Bharatpur located on National Highway No.11. The petitioner has prayed for a mandamus to the respondents directing them to cancel the candidature of respondent no.3 Smt. Sadhana Dagur and not to issue Letter of Intent to her and

instead issue such Letter of Intent to the petitioner Smt. Neelam Chaturvedi who was placed at serial number 2 in the select panel. An additional prayer has been made that if in the meantime, the Letter of Intent is issued to the non petitioner no.3 the same be quashed and set aside.

Factual matrix of the case is that the Hindustan Petroleum Corporation Ltd, (hereinafter referred to as `the Corporation') a Government of India undertaking, published an advertisement in Rajasthan Patrika on 2nd January, 2004 inviting applications for allotment of 243 Retail Outlets in the State of Rajasthan. Applications were also invited for allotment of a retail outlet at main Halena crossing at National Highway No.11

in open category though reserved for women candidates. The petitioner as also the respondent No.3 applied in response to the said advertisement. According to the petitioner, the land offered by her was suitable being in conformity with the norms laid down by Circular dated 17.10.03 issued by Ministry of Road Transport and Highways (for short `the MORTH norms') for access of fuel station. But the respondent Corporation has illegally awarded maximum marks for the land offered by the respondent no.3 even though the land offered by her in the application form did not fulfill the requirement of clause 6.1.1.1(i) of said Circular. Retail outlet was illegally allotted to her. Later when this was discovered, the respondent Corporation

served the notice dated 22.06.03 upon the respondent No.3 for cancellation of such allotment. Instead of, however, cancelling the allotment, the respondent Corporation has given an opportunity to the respondent No.3 for providing another piece of land, as per condition No.3 of the advertisement. If the land offered by the respondent No.3 was not found suitable, then as per para 17 of internal guidelines of the respondent Corporation the retail outlet ought to have been offered to the petitioner. Action of the respondents in giving another chance to the respondent No.3 and not allotting the retail outlet to the petitioner is liable to be annulled being arbitrary, unreasonable and illegal.

I have heard Shri N.K. Maloo, the

learned counsel for the petitioner, Shri J.K. Singhi, the learned counsel for the respondent Corporation and Shri R.N. Mathur, the learned counsel for the respondent no.3.

Shri N.K. Maloo, the learned counsel for the petitioner argued that the condition no.2 and 3 of the advertisement dated 1.1.04 published on 2.1.2004 have to be construed strictly. Condition no.2 categorically provides that only such candidate can apply for allotment of retail outlet who have a suitable land to offer for setting up the proposed retail outlet or have entered into agreement for purchase and sale of such land and who is its owner. While referring to condition no.3, he argued that the candidate should give details of the land along with the

application form which he/she would make available for setting up the retail outlet in the event of his / her selection. Condition no.3 further provides that preference shall be given to such candidates who give the land to the company for a longer period of lease keeping in view the suitability of such land. Reference has been made to the later part of condition no.3 which further provides that if a selected candidate fails to provide the land indicated in the application form within two months of the issuance of Letter of Intent, the company would have a right to cancel the allotment of such dealership / distributor ship. Lastly, this condition further provides that the company shall be the sole judge in deciding the

suitability of the land. Shri N.K. Maloo made reference to the internal guidelines issued by the company for selection of retail outlet especially clause 14.1 which provides that site offered by the candidate should meet the requirement of National Highway Authority of India, in case located on National Highways. Beside this, site should also meet the norms of statutory bodies like forest, explosive etc. and should be converted for commercial purposes. The technical / commercial suitability of the land/site offered by the candidates against the advertisement for any location should be ascertained by a team of the Corporation before the interview for that location based on various parameters indicated therein. Shri N.K. Maloo then referred to

clause no.17.1 which provides that if the first candidate is not found suitable or fails to fulfill the terms and conditions of the award of dealership or the award is to be cancelled for any reason, the dealership should be offered to second candidate in merit after necessary field verification. He therefore argued that it is the applicant who has to ensure the suitability of the land which he is proposing for setting up the retail outlet and in terms of condition no.3 of the advertisement, it has to be same land which was indicated in the application on which the retail outlet could be set up. It has been further argued that the assessment has been made by the selection committee as per the evaluation criteria laid down by the company, copy of which

has been placed on record at Annexure-6. According to clause (a) of such criteria, out of total 100 marks, 35 marks are allotted for capacity of providing land and infrastructure / facilities. Shri N.K. Maloo argued that the selection committee awarded 35 marks to the respondent no.3 even though eventually the land offered by her was not found suitable. It was argued that when already notice was given to the petitioner on 22.6.2004 that points out the reference to non fulfillment of the MORTH norms and maintaining that the candidature of the respondent no.3 was void, there was no reason thereafter to accept her request for providing alternate site. Shri N.K. Maloo emphasized on condition no.3 of the advertisement and argued that the

respondent No.3 was required to provide the same land which was indicated in the application form within two months of the issuance of Letter of Intent and upon her failure to do so, the allotment was liable to be cancelled and the allotment of the retail outlet ought to have been made in favour of the petitioner in terms of clause 17.1 of the guidelines.

Shri N.K. Maloo further argued that the guidelines framed by MORTH are statutory guidelines issued in terms of the provisions of Section 28 of of the Control of National Highways (Land & Traffic) Act, 2002 which speaks of two types of permission, one general and another special. The general permission is granted by official gazette as per Section 29 and specific permission is

granted in the manner specified in Section 29. As per sub-section (2) & (3) of Section 29 specific permission is granted and a licence is issued to the applicant. Clause 10.2 to 10.5 of the MORTH guidelines dated 17.10.2003 provides for a detailed procedure for obtaining special permission for petrol pump and for grant of licence for fuel stations along the national highways. According to him, the permission for setting up a petrol pump is a special permission and therefore this would be required to be decided on case to case basis and was not required to be published in the official gazette. It was clear case of undue favour shown to respondent no.3 because she happened to be the wife of an IAS officer. Shri N.K.

Maloo in order to buttress his argument relied on the judgment of this Court in Dalpat Singh Vs. Union of India & Ors., 2005(9) RDD 3789 (Raj.) in which a direction was given to the oil companies to make strict compliance of the guidelines issued by Union of India, State of Rajasthan and other local bodies. Reliance was also placed on the judgment of Hon'ble Supreme Court in Ramana Dayaram Shetty Vs. The International Airport Authority of India & Ors., AIR 1979 SC 1628 for the argument that once tender is called with certain requisite qualifications laid down therein, tender of a candidate, who does not fulfill such requisite qualifications, cannot be accepted. Reliance was also placed on a Single

Bench decision of Patna High Court in Anil Kumar Singh Vs. Union of India & Ors., AIR 2001 Patna 56 which was a case of allotment of Indane Liquefied Petroleum Gas dealership. In that case, the selected candidate was found to be not a resident of Village where dealership was granted, therefore the Court directed that the petitioner who was the next candidate in the select merit should be granted the dealership.

On the other hand, Shri J.K. Singhi, the learned counsel for the Corporation opposed the writ petition and denied the allegations of any favourtism being shown to respondent no.3. He argued that when the advertisement format was finalised at the industry level, the oil industry could not incorporate the MORTH norms in

the advertisement format and accordingly the norms contained in the Circular dated 17.10.03 could not be included because this advertisement format was finalised by the industry much prior to the issuances of the MORTH circular dated 17.10.2003. When however a joint inspection of the site was carried out by the team of the Corporation, it found that the land offered by the respondent no.3 was not in conformity with the requirements of MORTH criteria. It was therefore that a notice was sent to her to submit her explanation. The respondent no.3 submitted her reply in which she represented that neither in the advertisement nor at the time of interview, was she informed about the guidelines of the MORTH and therefore the

land offered by her could not conform to such guidelines because she offered the land as per the specifications indicated in the advertisement. The Corporation considering bona fides of the respondent no.3 especially the fact that the MORTH guidelines were required to be notified to the prospective candidates and this having not been done, she has been prejudiced, decided to give her one more chance. It was therefore that a conditional Letter of Intent was issued to her. It was not a case of any undue favour being shown to respondent no.3. Shri J.K. Singhi drew attention of the Court towards Annexure R/2/1 which is copy of the letter dated 2.9.04 issued by the General Manager, North Zone to Sr. Regional Manager, Jaipur where similar

treatment was given to two candidate selected for allotment of retail outlet where besides the respondent no.3 for Halena location, one more candidate for Shahpura location was also included. Shri J.K. Singhi further argued that no specific details or materials have been given by the petitioner as to which of the officers of the Corporation favoured the respondent no.3. Not only that, no such officer of the Corporation has been impleaded as party respondent on allegations of mala fides. The petitioner has even failed to implead the husband of the respondent no.3, who is said to be an IAS officer, as party respondent. Allegation of mala fides, besides being wholly unfounded, are therefore liable to be rejected for this reason only.

Shri J.K. Singhi, the learned counsel for the respondent Corporation argued that allocation of 35 marks out of 100 marks for the purpose of selection of a dealer are made not for the suitability of the land, but for the capacity of the candidate to provide the land and infrastructure / facilities and there was nothing wrong in allocating such marks to the respondent no.3 because she was considered by the Selection Committee very much capable of providing the land. She however offered the land in terms of the specifications indicated in the advertisement alone which did not conform to the MORTH specifications because such specifications were not notified in the advertisement. Shri J.K. Singhi, the learned counsel for the respondent

Corporation relied on the judgment of division bench of this Court in 2003 (UC) WLC 116 and 2005 (4) WLC 540.

Shri R.N. Mathur, the learned counsel for contesting respondent no.3 also opposed the writ petition and refuted all the allegations of mala fides. He argued that just because the husband of the respondent no.3 happens to be an IAS officer, this could not render her ineligible for allotment of retail outlet. She like any other candidate, being citizen of country, is entitled to consideration for allotment of such retail outlet. He argued that the respondent for the first time by their letter dated 22.6.2004 informed the petitioner that that the land offered by her does not meet the MORTH norms. She

then made a representation that no such norms was ever notified to her either in the advertisement or at any stage during the process of selection. She offered to provide an alternate piece of land in accordance with the MORTH norms. Shri R.N. Mathur argued that if the petitioner is capable of buying and providing suitable land in terms of the specifications indicated in the advertisement, there was no reason why she could not provide such land as per the norms contained in the MORTH guidelines if only the same had been duly notified. While referring to para 2 of the MORTH Circular, he argued that this clause itself mentions that the “norms covers the most common situations. And complex situation would have to be dealt

with through traffic expert for an appropriate solution.” Shri R.N. Mathur, the learned counsel for the contesting respondent no.3 led much emphasis on condition no.10.1 which required the Ministry of Petroleum & Natural Gas / Oil Company that while entertaining any application for the installation of Fuel Station, they would supply copy of these norms to the applicant so that he / she may assess his / her position to fulfill the requirements of these norms and further that they would ensure that the plot offered should conform to the requirements of these norms. It is submitted that if the respondent no.3 could not while initially offering the land adhere to the specifications of the MORTH, fault does not lie on her part and

she cannot be made to suffer on this account. Shri R.N. Mathur further argued that if the respondents on consideration of the representation of the respondent No.3 have decided to provide an opportunity to her to offer a suitable land in conformity with the specifications contained in the MORTH circular, there is nothing wrong in it. Shri R.N. Mathur further argued that in spite of having been selected and granted letter of Intent, the respondent no.3 had to suffer because she was put to a disadvantageous position in having first procuring / purchasing one land and thereafter the second land. Although if only the MORTH specifications had been notified, she would not have been required to go through the ordeal of

purchasing two pieces of land. He also argued that the 35 marks are awardable for capacity of the candidate to provide land and infrastructure / facilities and not for the suitability of the land as has been sought to be made out by the petitioner. Such marks were awarded to respondent no.3 only because she was found capable by the selection committee to provide the land and infrastructure. Shri R.N. Mathur made a pointed reference to the terms of the endorsement number of the MORTH guidelines dated 17.10.2003 made to Ministry of Petroleum and Natural Gas, Government of India with the request to issue suitable instructions to adhere to these norms, while planning, installation of the fuel stations along the national highways. In spite of this

if the oil companies did not incorporate such requirement in their advertisement, the potential candidate like respondent no.3 could not be penalized for that. Lastly Shri R.N. Mathur refuted the allegations of the mala fides and submitted that not only the allegations are vague and unspecific but also liable to be rejected because neither any Officer of the Corporation, nor even the husband of the respondent no.3 has been impleaded as party respondent on such allegations of mala fides, in absence of which, all these allegations are liable to be rejected. He therefore argued that the writ petition be dismissed.

I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties and

scanned the material on record.

Scope of the present writ petition is confined only to the question whether the action of the respondents in extending another chance to the respondent no.3 to offer alternative piece of land for setting up retail outlet on the basis of selection pursuant to advertisement dated 1.1.2004 suffers from any such illegality as may necessitate interference by this Court in exercise of its power of judicial review under Article 226 of the Constitution of India. With the eventual issuance of letter of intent to the respondent no.3 and her action in having actually offered another piece of land to the respondent Corporation in conformity with the guidelines laid down by MORTH Circular dated 17.10.2003, now the issue

about the enforceability and mandatory nature of the guidelines and instructions issued by the Central Government in terms of sub-section (2) of Section 28 is no longer necessary to be considered. What is however necessary to be examined is whether the respondents, in the light of condition no.2 and 3 of the advertisement dated 1.1.2004 and clause 14(1) of their guidelines, were justified in law in accepting another piece of land offered by the respondent no.3 which was not the same land which she offered in her application form for setting up the retail outlet. Undeniably, the respondent Corporation when it issued the advertisement, had indicated the location of Halena at S.No.14 therein in open (woman) category on either side of the

national highway no.11 within 2 kms. of its main crossing. Now so far as the land originally offered by the respondent no.3 is concerned, it is not in dispute that it was situated within 2 kms on the main crossing of national highway no.11. Condition no.2 further required the candidate to either purchase a suitable land or to have agreement with the owner of the land for either purchase or lease of such land. According to condition no.3, details of such land are required to be furnished along with the application form which the candidate shall make available for suitable retail outlet in the event of his / her selection. Even condition no.3 requires that in the event of selection, the candidate shall have to make available

the land indicated in the application form within two months from the date of issue of Letter of Intent and upon his / her failure to do so, the dealership / distributorship would be liable to be cancelled.

Bone of the contention between the parties in the present case is about the legal knowledge of norms laid down in the MORTH circular dated 17.10.2003 while offering the first land especially in the context of clause 6.1.1.1(iii) thereof. The Ministry of Road Transport and Highways, Government of India laid down norms for access for fuel stations, service stations etc. along National Highways vide its circular dated 17.10.03. Reference has been made to para 6.1 and 6.1.1 of the Circular which are

for the facility of reference reproduced hereunder:-

> “6.1 For the siting of fuel stations along National Highways, its minimum distance from an intersection would be:
>
> 6.1.1 Non-Urban (Rural) Stretches.
>
> 1. Plain and Rolling Terrain
>
> (i)Intersection with NHs/SHs/MDRs 1000m
>
> (ii)Intersection with Rural Roads with carriageway width of 3.5m or more 300m
>
> (iii) Intersection with rural Roads and all other earth tracks with carriageway width less than 3.5m 100m”

According to these norms, minimum distance of the proposed land from an intersection with National Highway / State Highway / Main District Road has to be 1 kms and in this case, the land originally

offered by the petitioner was located within 1 kms of the intersection of the National Highway with the State Highway. It is a common case between the parties that the land offered by the candidate should meet the requirements of MORTH norms. While the site originally offered by the petitioner did not conform to these requirements but the second site, which the respondent no.3 has now offered and which has been accepted by the respondent Corporation, does conform to such norms. The petitioner alleges that when the respondent Corporation found that the land originally offered by the respondent no.3 was not in conformity with the MORTH norms, according to their original notice dated 22.6.2004, they ought to have proceed to cancel her allotment and as

per clause 17(1) of their internal guidelines, such allotment should have been offered to the petitioner who was at number 2 in the merit list. The Corporation however does not deny having issued the notice to the respondent no.3 on 22.6.2004 but their further stand is that they had merely called for the explanation of the respondent no.3. When the respondent no.3 submitted a representation in response thereto, they upon consideration of the same found her explanation as reasonable and bonafide. This was so because when the advertisement format was finalized on the industry level, the oil industry did not incorporate the MORTH norms in the advertisement format because the same had been finalized prior to issuance of

Circular dated 17.10.2003 and therefore the norms could not be included in the advertisement. Contention of the petitioner is that these norms were statutory in character and therefore it was the obligatory duty of the candidates including respondent no.3 to verify before hand whether the land which she was going to offer conformed to the norms laid down by the National Highway Authorities. If the petitioner has not taken that precaution, her allotment ought to have been cancelled.

Glance at MORTH norms contained in Circular dated 17.10.2003 reveals that the said Circular issued by the Ministry of North Transport and Highway lays down the norms for the access of fuel stations, service stations and rest areas

along National Highways. This was in modification of the earlier circular / publication of the Ministry / Indian Red Congress. Norms were enclosed at Appendix I which were required to be followed for seeking and granting permission for the access to the new fuel stations. It was provided that the oil company / owner would have the responsibility to ensure that the proposed location and other features and fuel stations are in conformity with these norms. Enforceability of these norms is not in doubt. But then, what is to be examined is that these norms are issued by Chief Engineers / Director General (Border Roads), Special Secretary Government of India and addressed to Chief Secretaries/Secretaries (PWD/Roads) of

all State Governments, Chief Engineers of States dealing with National Highways, Director General (Boarder Roads) and Chairman, National Highways Authority of India. Now copies of this Circular were endorsed, apart from others, to the Ministry of Petroleum and Natural Gas, Government of India at endorsement No.3 with the request to issue suitable direction to adhere to while planing and operation of the fuel stations along national highways. The Appendix I which was enclosed with the said Circular in clause 10.1 has given the requirement of implementation. Clauses 10.11 and 10.12 thereof, which are relevant for deciding the present controversy, are reproduced hereunder:-

> “10.11 Non conformity or any

default in respect of the norms and as indicated in Para 1 to 9, Para 10.9 and Para 10.10 above would make the fuel station liable to be de-energized. In cases of clustered fuel stations, responsibility for default or non-conformity to attract such penalty would be determined through a joint inspection. In such cases, the procedure prescribed in Para 10.12 below would be adopted.

10.12 In cases of default(s) found by Highway Authority, joint inspection by the representative of the concerned Oil Company and the Field officer incharge of that NH section would be undertaken to identify each deficiency and time frame for its rectification which in no case should exceed 60 days from the date of joint inspection. The

> failure to rectify the identified deficiencies within the prescribed time would lead to de-energizing the petrol pump by the concerned Oil Company. The re-energizing would be done only on complete rectification and on the authorization by Field Officer, incharge of NH section."

A perusal of clause 10.11 and 10.12, supra, would reveal that Ministry of Petroleum & Natural Gas was required that while entertaining for notice of fuel stations, they would supply copy of the norms to the applicant so that he / she may assess his / her position to these norms. They were further required to ensure that the plot fulfills the requirement of these norms in terms of their location, access, lay out and

assistance and marketing it was then the responsibility of the candidate to provide the prescribed lay out plan for assess while preparing the lay out. The respondent Corporation has categorically admitted that the advertisement in question was issued on basis of the format finalized by the oil industry prior to the receipt of MORTH circular dated 17.10.2003 which is why the specifications contained therein could not be included in the advertisement. Unlike in the case of notifications issued under sub-section (3) of Section 28 which are mandatorily required to be published in Government Gazette, the guidelines and instructions issued by the Central Government from time to time with reference to the power conferred upon it

by sub-section (2) of Section 28 are not required to be published in the official Gazette. This explains why the MORTH Circular issued in the nature of an inter department / inter government communication was not published in the official Gazette. Notwithstanding the fact that this can be taken as a statutory Circular having been issued in exercise of statutory power conferred upon the Central Government by Section 28 (2), it remains a fact that such Circular was neither notified for information of the public at large having been published in the official Gazette, nor was it notified to the prospective candidates collectively either in the advertisement or individually given to them with the application forms. Analysis of column

10.11 of Appendix 1 to the MORTH referred to (supra) would further make it evident that even in the cases where already existing fuel stations are not found in conformity with the requirements contained in various paras of the said Appendix, such default or non conformity would attract penalty that may be determined through a joint inspection and in such cases, the procedure prescribed in column 10.12 (supra) would apply. Column 10.12 (supra) requires that in case of default, an exercise shall be entertained to identify each deficiency and time frame shall be given for its rectification which in any case should not exceed 60 days from the date of joint inspection and failure to rectify the identified deficiencies would lead to de-

energizing the petrol pump by the concerned oil company. Re-energizing would be done only upon complete rectification and on the authorization by Field Officer, incharge of the N.H. Section. In spite of the fact that the guidelines contained in the subject MORTH Circular are mandatory in character, consequences thereof includes, amongst others, the opportunity being given to the candidate to rectify the mistake. In the present case, what has at the maximum happened is that when originally the advertisement was issued, the respondent did not incorporate the requirement of adherence to the MORTH specifications but eventually upon receiving the representation of the respondent no.3 they on her request decided to give her

another chance to do so in keeping with the principles of natural justice and fairness in action because in spite of being required they failed in their duty to timely inform the candidates as to the requirement of conforming to the MORTH norms. I therefore do not find any illegality so as to warrant interference by this Court in exercise of its power of judicial review as the consideration on which the action is based is neither irrelevant nor extraneous but in fact is germane to the necessity of the circumstances of the case.

If the respondents had the option to approach this Court at the stage when she was served with the notice dated 22.6.2004 and if instead of directly approaching this Court, she submitted a

representation to the respondents raising her grievance in the aforesaid terms and eventually if the respondent corporation has decided to give another opportunity to her to offer alternative site, their action cannot be castigated as either illegal or contrary to law or even an undue favour. It has come on record that such difficulty also arose with respect to another selected candidate in relation to the location of retail outlet proposed to be set up at Shahpura and the General Manager North by his letter dated 2.9.2004 addressed to Senior Regional Manager, Jaipur Retail Region advised that both the first empaneled candidates when they offered the land in the advertised area, were not aware of the MORTH guidelines nor were they notified

of the same, therefore, both of them should be given an opportunity of arranging a suitable land within the specified period. This, therefore cannot be a case of undue favour to respondent no.3 alone. Besides, I am not persuaded to accept the argument of undue favour or favoritism because the petition does not give any particulars, material or datas on the basis of which the petitioner seeks to sustain such arguments of malafides. No allegation against any functionary or the official of the Corporation has been made by name so much so in even the husband of the respondent no.3 who is said to be an IAS officer impleaded as party respondent on allegations of such mala fides. Such allegations are therefore liable to be

rejected and are accordingly rejected.

In so far as the argument of the petitioner that no marks could have been awarded to the respondent no.3 when her land was not found to be suitable, it should be noted that the norms laid down by respondent Corporation has provided for awarding 35% marks on the basis of “capability to provide land and infrastructure / facilities” which cannot be considered synonymous with the suitability of land. The petitioner did offer to provide a land within 2 kms of either side of the Halena main crossing at National Highway 11 itself and it was on that basis that her capability to provide not just the land but also infrastructure / facilities was adjudged and on that basis marks were awarded.

Just because the land offered by the respondent no.3 did not conform to the norms laid down in the MORTH Circular, this did not mean that she was not capable of providing the land or even infrastructure / facilities. No doubt condition no.3 of the advertisement refers to suitability of land and condition no.3 ordain the candidate to make available the land referred to in the application form within two months of the issuance of Letter of Intent but this was not a case where the petitioner was not able to provide the land offered by her in the application form within 2 months of issuance of Letter of Intent. It was because of the peculiar facts of this case that in spite of her ability and preparedness to offer the land

referred to in the application form, such land was not acceptable by the respondent Corporation because the same did not conform to the norms laid down in the MORTH Circular and the petitioner could not offer the land as per the norms contained in the MORTH Circular because she was not duly notified of such norms either collectively in the advertisement or individually by supply of such MORTH Circular and norms along with application form.

Coming now to the case law relied on by learned counsel for the petitioner, it should be noted that the Co-ordinate Bench of this Court in Dalpat Singh (supra) merely required the oil companies to make strict compliance of the guidelines framed of the Ministry of Road

Transport and Highways and various departments of State Government and there should be no quarrel with that proposition of law. In the present case too, the respondent Corporation in due deference to such guidelines decided to require the respondent No.3 to set up the proposed retail outlet at a place which conform to the norms contained in the MORTH Circular dated 17.4.2003. The Judgment of the Hon'ble Supreme Court in Ramama Dayaram Shetty (supra) was one pertaining to tenders called for running a second class restaurant at International Airport at Bombay and in that case their Lordships held that the International Airport could not depart from the standard or norms laid down for running a second class restaurant and the

fourth respondent in that case having not satisfied the condition of eligibility of five years experience, her tender could not be accepted. There cannot be no quarrel with proposition of law laid down by their Lordships in Ramana Dayaram Shetty either. But the law laid down therein does not apply to the facts of the present case because the respondent no.3 herein had not been notified of the requirements of the MORTH norms in the advertisement issued by the respondent Corporation which fact they themselves acknowledged. Besides, even as per the MORTH norms and conditions stipulated therein, the Corporation was required to duly notify the prospective candidates of such norms. The judgment of learned Single Judge of Patna High Court in Anil

Kumar Singh (supra) also turned out on its own facts and the ratio thereof cannot be projected upon the facts of the present case.

In view of what has been discussed above, I do not find any merit in the present petition. The writ petition is therefore dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.

RS/-